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Attorney for Plaintiff

/as

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEVADA (LAS VEGAS)

SHELENE I. BRIGGS,

Plaintiff,

v.

ANDREW SAUL,
Commissioner of Social Security,

Defendant.

Case No.: 2:19-cv-01094-APG-NJK

STIPULATION AND [PROPOSED]
ORDER FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES
PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT, 28
U.S.C. § 2412(d)

On January 6, 2021 this Court issued an order reversing the final decision of the Defendant, Andrew Saul, the Commissioner of Social Security (Commissioner), with a remand for a rehearing, 42 U.S.C. § 405(g) (sentence four); judgment was entered on January 7, 2021.

In the interest of administrative and judicial economy, the parties have agreed to stipulate that an award of FIVE THOUSAND SIXTY-SIX AND SIXTY-FIVE (\$5,066.65) in attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), is reasonable. The parties stipulate that no costs will be awarded under 28 U.S.C. § 1920. This award is without

1 prejudice to Plaintiff's right to seek attorney's fees under section 206(b) of the Social Security
 2 Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. However, this award shall
 3 constitute a complete release from and bar to any claims Plaintiff may have relating to EAJA
 4 fees and costs. Further, such award shall not be used as precedent in any future cases, nor be
 5 construed as a concession by the Commissioner that the original administrative decision denying
 6 benefits to Plaintiff was not substantially justified.

7 After the Court issues an order for EAJA fees to Plaintiff, the Government will consider
 8 the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel"). Pursuant to
 9 Astrue v. Ratliff, 560 U.S. 586 (2010), the ability to honor an assignment will depend on whether
 10 the fees are subject to any offset allowed under the United States Department of the Treasury's
 11 Offset Program. After the order for EAJA is entered, the Government will determine whether
 12 they are subject to offset. Fees shall be made payable to Plaintiff, but if the Department of
 13 Treasury determines Plaintiff does not owe a federal debt, then the Government shall cause the
 14 payment of fees, expenses, and costs to be made payable directly to Counsel, pursuant to the
 15 assignment executed by Plaintiff. Any payments made shall be delivered and made payable to
 16 Counsel.

17 Accordingly, Defendant agrees to pay Plaintiff \$5,066.65 in attorney's fees.

18 All parties whose signature lines appear in this document have consented to its filing.
 19 This award is without prejudice to the rights of Sackett and Associates and/or Harvey P. Sackett
 20 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
 21 provisions of the EAJA.

23 Dated: March 14, 2021

SACKETT AND ASSOCIATES

24 /s/ HARVEY P. SACKETT
 25 HARVEY P. SACKETT
 26 Attorney for Plaintiff
 27 SHELENE I. BRIGGS

1 Dated: March 14, 2021


CHRISTOPHER CHIOU
Acting United States Attorney

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3 By: /s/ALLISON JAIME CHEUNG
4 ALLISON JAIME CHEUNG
5 Special Assistant United States Attorney
6 Attorneys for Defendant
[*as authorized by e-mail on 3/14/21]

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8 **ORDER**

9 Pursuant to the stipulation, IT IS SO ORDERED.
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12 Dated: March 15, 2021



13 ANDREW P. GORDON
14 UNITED STATES DISTRICT JUDGE
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